

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

OSCAR WILLIAMS, JR.,

Petitioner,

vs.

SALVADOR A. GODINEZ, *et al.*,

Respondents.

3:90-cv-0324-HDM-VPC

USCA: 12-16139

ORDER

This action was on a petition for writ of habeas corpus brought in 1990. Before the Court is an Order remanding the matter from the Ninth Circuit Court of Appeals in order for this Court to determine whether a certificate of appealability should issue. ECF No. 78. On July 23, 1993, this Court entered an order determining that any appeal of the Court's order and judgment would not be taken in good faith. *See* ECF No. 72, docket #60.

In order to proceed with an appeal from this court, petitioner must receive a certificate of appealability. 28 U.S.C. § 2253(c)(1). Generally, a petitioner must make "a substantial showing of the denial of a constitutional right" to warrant a certificate of appealability. *Id.* The Supreme Court has held that a petitioner "must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

The Supreme Court further illuminated the standard for issuance of a certificate of

1 appealability in *Miller-El v. Cockrell*, 537 U.S. 322 (2003). The Court stated in that case:

2 We do not require petitioner to prove, before the issuance of a COA, that
3 some jurists would grant the petition for habeas corpus. Indeed, a claim
4 can be debatable even though every jurist of reason might agree, after the
5 COA has been granted and the case has received full consideration, that
6 petitioner will not prevail. As we stated in *Slack*, “[w]here a district court
7 has rejected the constitutional claims on the merits, the showing required
8 to satisfy § 2253(c) is straightforward: The petitioner must demonstrate
9 that reasonable jurists would find the district court’s assessment of the
10 constitutional claims debatable or wrong.”

11 *Id.* at 1040 (quoting *Slack*, 529 U.S. at 484).

12 The Court has considered the issues raised by petitioner, with respect to whether they
13 satisfy the standard for issuance of a certificate of appeal, and the Court determines that none meet
14 that standard. The Court sees no basis to reevaluate its original determinations as to the validity of
15 an appeal. Accordingly, the Court will deny petitioner a certificate of appealability.

16 **IT IS THEREFORE ORDERED** that petitioner is **DENIED A CERTIFICATE**
17 **OF APPEALABILITY.**

18 Dated this 19th day of June, 2012.

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20 UNITED STATES DISTRICT JUDGE
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